

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ARAMIS CONSTRUCTION, INC.,

Plaintiff,

-against-

MT. HAWLEY INS. CO., et al.,

Defendants.

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Gold, S., Magistrate Judge:

REPORT AND  
RECOMMENDATION  
10-CV-5973 (JBW)

Plaintiff Aramis Construction, Inc. (“Aramis”) originally filed this action in New York State Supreme Court against defendants, seeking a declaratory judgment that defendants are obligated to defend and indemnify plaintiff in a pending state court action and to recoup its costs. Defendants filed a notice of removal on December 22, 2010.

Plaintiff is a corporation. Counsel for plaintiff moved to be relieved on September 8, 2011. Docket Entry 19. At a status conference held on September 9, 2011, I scheduled a hearing on the motion for September 23, 2011 and issued the following notice:

A principal of the plaintiff corporation must be present at the hearing. . . . If a principal of plaintiff fails to appear, counsel’s motion will be granted. I note that a corporation such as plaintiff may appear in court only if represented by counsel. *See, e.g., Rowland v. California Mens Colony*, 506 U.S. 194, 202-03 (1993); *Jones v. Niagara Frontier Transportation Auth.*, 722 F.2d 20 (2d Cir. 1983). Accordingly, if current counsel’s motion for leave to withdraw is granted, and plaintiff does not appear through new counsel by October 3, 2011, I will recommend that this case be dismissed. COUNSEL FOR PLAINTIFF SHALL SERVE PLAINTIFF WITH A COPY OF THIS ORDER FORTHWITH AND FILE PROOF OF SERVICE WITH THE COURT.<sup>1</sup>

Minute Entry for Conf. held on Sept. 9, 2011. At the September 23<sup>rd</sup> conference, a principal of Aramis failed to appear and I granted plaintiff’s motion. Minute Entry for Conf. Held on Sept.

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<sup>1</sup> Plaintiff was in fact served with a copy of the Minute Entry. Docket Entry 20.

23, 2011. I again alerted plaintiff in my minute entry, which was served by plaintiff's former counsel upon plaintiff as per my Order, that a corporation must appear through counsel or risk dismissal. *See* Docket Entry 23.

As of today's date, plaintiff has not appeared through new counsel and defendant Scottsdale has moved to dismiss. Docket Entry 24.

For these reasons, I respectfully recommend that this action be dismissed with prejudice for failure to prosecute. Any objections to the recommendation contained in this report must be filed with the Clerk of the Court within fourteen days of this Report and in any event no later than November 14, 2011. Failure to object to this report may waive the right to appeal the district court's order. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72; *See Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989).

/s/

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**Steven M. Gold**  
**United States Magistrate Judge**

**Brooklyn, New York**  
**October 27, 2011**

A copy of this report will be mailed this day to plaintiff's principal at the following address:

Aramis Construction, Inc.  
311 Bay 8<sup>th</sup> St.  
Brooklyn, NY 11228

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